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May 2, 2012

The Honorable John Laird
Secretary
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Re: Bay Delta Conservation Plan Delay

Dear Secretary Laird:

The Kern County Water Agency (Agency) greatly appreciates the considerable talent and effort California Department of Water Resources (DWR) Director Mark Cowin and Deputy Secretary of the California Natural Resources Agency Dr. Jerry Meral have invested in moving the Bay Delta Conservation Plan (BDCP) toward release of the public draft on June 29, 2012. We also appreciate the commitment of Governor Jerry Brown and Secretary of the U.S. Department of the Interior Ken Salazar to jointly announce a preferred project at that time. After almost six years of work, the public draft will be the first time a preferred project has been identified for the BDCP. The preferred project will serve as the basis for the Agency's decision to continue or discontinue funding the BDCP.

While we have confidence that Mr. Cowin and Dr. Meral can deliver a preferred project in time for the announcement by the Governor and the Secretary, we are concerned that the pace of decision-making by the federal agencies with which DWR has partnered to produce the BDCP is too slow and has resulted in a costly and unacceptable delay. We understand from DWR reports that the June 29, 2012 deadline for release of the public draft of the BDCP will be missed and that the earliest possible release date is now September 10, 2012.

The Agency is aware of and supports the series of meetings in April and May between the State and federal agencies which are intended to reach agreement on a preferred project. We are also aware that the meetings held on April 18 and 19, 2012 were unproductive and did not result in decisions or agreements on specific issues that move the BDCP closer to a preferred project. The lack of progress at the April meetings underscores our concern that agreement on a preferred project among the State and federal agencies on September 10, 2012 is already in jeopardy.

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A delay in releasing the public draft and announcing the preferred project on September 10, 2012 casts significant doubt on the State and federal agencies' collective management of the BDCP and may necessitate our withdrawal from the BDCP as a funding entity. To avoid that result, we respectfully request that DWR rely on the authority provided to it by the First Amendment to the MOA¹ and immediately begin making all decisions necessary to develop a preferred project for the BDCP and to recover as much of the projected delay as possible. If the federal agencies are able to increase their dedication to the BDCP and begin providing timely input, then it should be considered. However, if the federal agencies are unable to provide timely input, then Director Cowin should develop the preferred project by exercising the unilateral decision-making authority given to him under the First Amendment to the MOA, and by working with the California Department of Fish and Game and the Public Water Agencies.

The Agency Board of Directors (Board) has requested that Agency staff closely follow the outcome of the May 17 and 18, 2012 meetings between the State and federal agencies. At the Agency's May 24, 2012 Board meeting, the Agency will make a decision to continue with or withdraw from the BDCP based on the outcome of those meetings. If the meetings on May 17 and 18, 2012 do not result in a preferred project, or if DWR chooses not to develop a preferred project unilaterally, I expect the Agency will withdraw all funding for the BDCP.

The Agency is convinced that Mr. Cowin and Dr. Meral can produce a preferred project for the BDCP that is acceptable to the Agency and furthers the State's co-equal goals. And we are hopeful that the federal agencies can increase their willingness to assist the State in developing that preferred project by the conclusion of your meetings in May. In the event those meetings are not successful, or if the State chooses to delay the BDCP to accommodate the federal agencies' slow decision-making, the Agency's Board will be prepared to act at its May 24, 2012 meeting.

Sincerely,



Terry Rogers
President

cc: Honorable Edmund G. Brown, Jr.
Honorable Dianne Feinstein
Kern County Congressional and Legislative Delegation
Honorable Karen Ross
Honorable Matt Rodriquez
Honorable Michael Connor
Honorable Mark Cowin

¹ First Amendment to the Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan